THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No. 27731 OF 2005

04-01-2006

Between:

M/s.Krishi Sagar Agro Industries, Ankapur, Nizamabad District,

rep. by its Managing Partner.

……Petitioner

And

The Commercial Tax Officer, Nizamabad-III, Nizamabad.

……..Respondent

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No. 27731 OF 2005

ORDER : (Per Hon'ble Sri Bilal Nazki, J)

The demand notice has been challenged in this writ petition on

the ground that the assessment order was not served on the petitioner and he could not even file the appeals, as he was not aware that assessments have been made against him.

The learned Government Pleader, on instructions, submits that for the year 2001-2002, an assessment order was passed on 06.4.2005. For the year 2002-2003, assessment order was made on 25.3.2005 and with respect to 2003-2004, the order was passed on 14.7.2005. He contends that the order was served on the assessee-petitioner by affixation, but he does not dispute that the order was not served through registered post. In only one case, he submits that the order was tried to be served through Process Server, but the assessee refused to take the order.

In terms of Rule 58 of the Andhra Pradesh General Sales Tax Act, 1957, it is incumbent upon the assessing authority to serve the order of assessment in the mode prescribed by the provision. In the first instance, it has to be served through a Process Server and if service is not possible, it has to be sent through registered post. Even after sending the assessment order by a registered post, if it is not served, then the method of serving through affixation can be taken up.

Admittedly, in this case, the assessment orders were not served through registered post. Therefore, the notice of demand is quashed and the respondents are directed to serve the order to the petitioner within ten days from today. In order to avoid any further complications, the order can also be handed over to the counsel for petitioner appearing in this writ petition, who has accepted to take the order from the learned Government Pleader and in case it is handed over to the counsel for petitioner, that can be taken as sufficient service of the order.

Writ petition is accordingly allowed. No order as to costs.

(BILAL NAZKI, J)

4th January, 2006

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(D. APPA RAO, J)

ajr